

Democracy and state governed by law: harmony or conflict?

Abstract

The aim of this thesis is to define the concept of the state governed by law and the concept of democracy and to describe the relationship between them. The author of the thesis first reviewed literature defining the state governed by law and democracy and then compared different authors' concepts. These concepts are fundamentally different, therefore they cannot be included in a single definition. With regard to it, both concepts, democracy and the state governed by law, are divided into several subcategories: procedural and substantive democracy, legalistic, formal and material state governed by law. Concurrently, the author of this thesis considers the material state governed by law to be so distinctive that it is inappropriate to call it state governed by law. He chose the term constitutional liberalism for it.

The relationship between democracy and the state governed by law is determined by concepts of democracy and concepts of the state governed by law, therefore this part of the thesis is also divided into chapters dealing with the relationship between the state governed by law and democracy, depending on how they are understood. The method is similar as in the first part of the thesis, so the author first researched literature and then compared the views to the relationship between democracy and the state governed by law. In the end he tried to make a general conclusion.

The state governed by law, procedural democracy and constitutional liberalism are considered by the author of the thesis to be different concepts based on different philosophical foundations and values, and therefore he believes that these three concepts, in practice, tend to act against. These three concepts can exist together, but they are not inseparably connected. Substantive democracy is an ideal concept that actually combines certain elements of all these concepts, but at the cost of compromises and clashes. Similarly, constitutional liberalism usually claims the state governed by law, but prefers its own principles and values.

In addition, the thesis also outlines the differences and similarities between the state governed by law and the rule of law, and the relationship between the state governed by law and the law itself. It also mentions some forms of democracy.